

4807 Spicewood Springs Road  
Building 2, Suite 250  
Austin, Texas 78759  
Phone: (512) 338-4601  
Fax: (512) 338-4651

**TR** Taylor Russell & Russell, P.C.  
Intellectual Property Attorneys and Counselors at Law

# Fax

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**To:** Mail Stop Petition  
Commissioner for Patents

**From:** Douglas D. Russell

**Fax:** 703-872-9306

**Date:** 6/15/2006

**Re:** Special Processing Submission  
Petition Under 37 CFR 1.113 and  
37 CFR 1.181  
Application No. 09/677,476  
Application Filed: 10/02/2000  
Inventor: Ripley, et al.  
Title: SYSTEM AND METHOD FOR  
VISUALLY REPRESENTING  
HIERARCHICAL DATABASE OBJECTS  
AND THEIR SIMILARITY  
RELATIONSHIPS TO OTHER OBJECTS  
IN THE DATABASE

**Pages:** 7, including this cover sheet

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I hereby certify that this correspondence is facsimile transmitted to the USPTO, central facsimile number 703-872-9306 to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below:

June 15, 2005  
DateEllen Huffman  
Ellen Huffman

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|  |                             |
|--|-----------------------------|
| Applicants: Ripley, et al.   | Art Unit: 2171              |
| Application No.: 09/677,476  | Examiner: Patrick Santos    |
| Filed: 10/02/2000  | Attorney Docket No.: 800433 |
| Title: SYSTEM AND METHOD FOR VISUALLY<br>REPRESENTING HIERARCHICAL DATABASE<br>OBJECTS AND THEIR SIMILARITY<br>RELATIONSHIPS TO OTHER OBJECTS IN THE<br>DATABASE |                             |

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## PETITION UNDER 37 CFR 1.113 AND 37 CFR 1.181

Dear Sir:

Applicants hereby petition the Commissioner for Patents for relief from and reversal of a decision by the Office in an Advisory Action having a mail date of 06/02/2005, which denied Applicants' disqualification of U.S Patent No. 6,618,727 by Wheeler et al as prior art under 35 U.S.C. 103(c).

A summary of the related facts is as follows:

1. Applicants filed U.S. Patent Application No. 09/677,476 on 10/02/2000, which included the incorporation by reference of U.S. Patent Application No. 09/401,101. U.S. Patent

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81 10/02/2000 130.00 OP

09/677,476

Application No. 09/401,101 subsequently issued as U.S. Patent No. 6,618,727 to Wheeler et al on September 9, 2003(the Wheeler patent).

2. In a first Office Action having a mail date of 04/09/2004, the Office rejected all claims 1-19 under 35 U.S.C 103(a) as being unpatentable over U.S. Patent No. 6,594,673 issued to Smith et al in view of U.S. Patent No. 6,618,727 issued to Wheeler et al.
3. Applicants responded to the first Office Action by amending claims 1-4, 8-11, 13-16 and 18-19, and adding claims 20-25 to further distinguish Applicants' claimed invention. Applicants also presented arguments to rebut the rejections by the Office, and stating in several instances that the Wheeler patent is incorporated by reference into Applicants' specification. The reasons that Applicants did not present an objection to disqualify the Wheeler patent as prior art at that time was that Applicants believed that the rebuttal arguments presented were more than sufficient to overcome the rejections by the Office, and to avoid the requirement for a terminal disclaimer for the application under consideration.
4. In a second and final Office Action, the Office Action having a mail date of 12/28/2004, the Office rejected all claims 1-25 under 35 U.S.C 103(a) as being unpatentable over U.S. Patent No. 6,594,673 issued to Smith et al in view of U.S. Patent No. 6,618,727 issued to Wheeler et al.
5. Applicants responded to the second and final Office Action by presenting arguments to rebut the rejections by the Office, and objecting to the use of the Wheeler patent under 35 U.S.C. 103(c), based on common ownership or subject to an obligation of assignment to the same entity, namely Infoglide Corporation, at the time of the invention of the application currently under consideration. Applicants repeated the statement above, that the Wheeler reference is incorporated by reference into Applicants' specification. Applicants also included a declaration of common ownership, verifiable by examination of the assignment records on the U.S. Patent

Office, a terminal disclaimer for the application under consideration, and a fee under 37 CFR 1.20(d).

6. Applicants filed a Notice of Appeal on March 28, 2005.
7. Applicants filed an Appeal Brief on May 31, 2005.
8. In an Advisory Action having a mail date of 06/02/2005, the Office treated Applicants' objection to the use of the Wheeler patent and disqualification as prior art under 35 U.S.C. 103(c) as an amendment, and refused entry as not timely submitted.

Applicants petition the Commissioner for Patents for relief from and reversal of a decision by the Office in an Advisory Action having a mail date of 06/02/2005, which denied Applicants' disqualification of U.S. Patent No. 6,618,727 by Wheeler et al as prior art under 35 U.S.C. 103(c).

The reference of U.S. Patent No. 6,618,727 issued to Wheeler et al. (U.S. Patent Application No. 09/401,101), cited by the Office as a basis for all rejections, is incorporated by reference on page 2, line 25 of the specification of the current application as filed. The current application has a file date of October 2, 2000. Infoglide Corporation is presently the assignee of record of the present application and the Wheeler patent.

The current U.S. Patent Application No. 09/677,476 and U.S. Patent No. 6,618,727 (U.S. Patent Application No. 09/401,101) were, at the time the invention of U.S. Application No. 09/677,476 was made, owned by or subject to an obligation of assignment to the same entity, namely Infoglide Corporation of Austin, Texas. Assignment recordation documents for these applications are filed in the U.S. Patent Office.

Applicants also disclaim the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of U.S. Patent No. 6,618,727.

09/677,476

Applicants included executed copies of a declaration of common ownership and a terminal disclaimer as Attachment A in Applicants' response to the final Office Action. A fee set forth under 37 CFR 1.20(d) was also included with that response.

Applicants request that the disqualification as prior art of the Wheeler patent under 35 U.S.C. 103(c) be entered because (a) new issues have not been raised that require further consideration and/or search, (b) no issue of new matter have been raised, (c) the entry of the disqualification is not an amendment, (d) the entry of the disqualification would place the application in condition for allowance, and (e) there is no such time constraint under 35 U.S.C. 103(c).

Respectfully Submitted,

June 15, 2005  
Date



Douglas D. Russell, Reg. No. 40,152  
Attorney for Applicants

TAYLOR RUSSELL & RUSSELL, P.C.  
4807 Spicewood Springs Road  
Building Two Suite 250  
Austin, Texas 78759-8435  
Tel. 512-338-4601  
Fax. 512-338-4651  
Email: drussell@russell-law.com

JUN 15 2005

PTO/SB/17p (11-04)

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Approved for use through 07/31/2007. OMB 0851-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

|  |                      |                     |
|--|----------------------|---------------------|
| <b>PETITION FEE</b><br><b>Under 37 CFR 1.17(f), (g) &amp; (h)</b><br><b>TRANSMITTAL</b><br>(Fees are subject to annual revision) | Application Number   | 09/877,476          |
|  | Filing Date          | 10/02/2000          |
|  | First Named Inventor | Ripley, John R.     |
|  | Art Unit             | 2171                |
|  | Examiner Name        | Santos, Patrick J D |
| Attorney Docket Number   |                      | 800433              |

Send completed form to: Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

Enclosed is a petition filed under 37 CFR \_\_\_\_\_ that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. \_\_\_\_\_:  
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments  
 Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.

☒ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(a) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

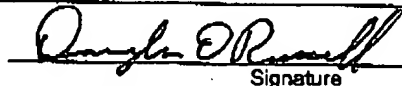
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.58 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(e) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.18(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.



Signature

Douglas D. Russell

Typed or printed name

June 15, 2005

Date

40152

Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.